

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

RICHARD COLLARD

§

VS.

§

C.A. NO. 3:16-cv-02637

**STATE FARM MUTUAL AUTOMOBILE
INSURANCE COMPANY**

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§

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE JUDGE OF SAID COURT:

Pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, Defendant State Farm Mutual Automobile Insurance Company (State Farm") files this Notice of Removal of the present action from the F-116th Judicial District Court of Dallas County, Texas to the United States District Court for the Northern District of Texas, Dallas Division, on the basis of diversity of citizenship and amount in controversy. In connection with this Notice of Removal, State Farm would respectfully show unto the Court as follows:

I. Introduction

1. This lawsuit began on or about August 4, 2016 when Plaintiff Richard Collard filed his Original Petition in Cause No. DC-16-09441 in the F-116th Judicial District Court of Dallas County, Texas, styled *Richard Collard vs. State Farm Mutual Automobile Insurance Company*. The suit arises from an automobile accident that occurred on August 8, 2014 in Dallas County, Texas.

2. State Farm was served with Plaintiff's Original Petition on August 15, 2016.

II. Grounds for Removal

A. Complete Diversity of Citizenship Exists Between the Parties, and the Amount in Controversy Exceeds \$75,000

3. Removal is proper because there is complete diversity of citizenship between the parties, and the alleged amount in controversy exceeds \$75,000, exclusive of interest and costs. *See 28 U.S.C. § 1332(a)(1).*

4. Plaintiff is a resident and citizen of Texas. (Pl's Orig. Pet., p. 1). State Farm was and is incorporated in, and a resident of, the State of Illinois.

5. Plaintiff's Original Petition states that "...Plaintiff seeks monetary relief over \$200,000 but not more than \$1,000,000." (Pl's Orig. Pet., p. 12). The amount in controversy, therefore, exceeds \$75,000. *See 28 U.S.C. § 1332(a)(1).*

B. Venue is Proper in This Division and in This District.

6. Plaintiff filed this action in Dallas County, Texas. The Dallas Division of the Northern District of Texas encompasses Dallas County, Texas. *See id. § 124(b)(2).* Thus, this district and division embrace the place where the state court action is pending. *See id. § 1441(a).*

III. Procedural Requirements for Removal

7. State Farm was served on August 15, 2016. This Notice of Removal is being filed on or before September 14, 2016. Accordingly, this Notice of Removal is timely filed within 30 days of when State Farm received Plaintiff's Original Petition and within one year of the commencement of this suit. *See id. § 1446(b).*

8. A copy of this Notice of Removal will be filed with the Dallas County District Clerk's office and served on the Plaintiff promptly. *See id. § 1446(d); see also Nixon v. Wheatley, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005).*

9. Pursuant to 28 U.S.C. § 1446(a) and Local Rule 81.1 of the Northern District of Texas, this Notice of Removal is accompanied by the following documents:

- (A) Index of Documents Filed with Removal Action;
- (B) Plaintiff's Original Petition;
- (C) Citation for Defendant, State Farm;
- (D) Defendant State Farm's Original Answer;
- (E) State Court Case Summary/Docket Sheet; and
- (F) List of Attorneys/Parties.

10. The filing fee has been paid to the Clerk.

11. The filing of this notice, along with the filing of the notice in the state court and service of the notice upon Plaintiff's counsel, serves immediately to confer exclusive jurisdiction of this cause upon this Court, and divests the state court of all jurisdiction over these proceedings and claims.

IV. Prayer

12. State Farm prays that the above-styled action now pending in the F-116th Judicial District Court of Dallas County, Texas be removed to this Honorable Court pursuant to the Court's diversity jurisdiction, that upon final trial, judgment be rendered that Plaintiff take nothing by his suit against State Farm, and for such other and further relief to which State Farm may be justly entitled.

13. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully Submitted,

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By: /s/ Gregory M. Howard

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CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was forwarded to all known counsel pursuant to the Federal Rules of Civil Procedure on this the 14th day of September, 2016.

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